IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
APPEAL FROM ORDER NO.97 OF 2005

Ms. Kailash Parbat Hindu Hotel — Appellant

Vs.

The Municipal Corporation of
Greater Bombay — Respondent

Mr.S.P.Kanuga with Mr.Hitesh Vyas for appellant.
Mr.J.Reis with Ms.Geeta Joglekar for respondent.

CORAM: B.H.MARLAPALLE,J.
July 22, 2005.

ORAL ORDER:

1. Pursuant to the order passed by this Court on 19-4-2005 inspection was carried of the suit structure (Kailas Parbat Hindu Hotel situated at ground floor, Shaia Mahal Junction of SBS Road and First Pasta Lane, Colaba, Mumbai) on 29-4-2005 and a joint inspection report is placed on record. In the order dated 3-5-2005 this Court noted the undertaking submitted by the appellant and gave him time to restore the structure to its original position in terms of observation nos.1 to 4 made in the joint inspection site report dated 29-4-2005. The appellant submitted an affidavit thereafter confirming that he complied with the undertaking furnished by him and noted in the order dated 3-5-2005. Mr.Reis, the learned counsel appearing for

the respondent-Corporation has placed on record the inspection report of the site submitted by the Asst. Engineer, A-Ward and it is noticed from the same that the height has been brought down to 8’9", three numbers of rolling shutters facing First Pasta Lane have been removed and one rolling shutter on the East side has also been removed. The report further states that the shutter is now covered with A.C. sheets and the present status of the shed is as per the drawing dated 9-8-1971.

2. Both the parties now state that nothing further survives in this appeal arising from dismissal of notice of motion but they pray that the trial of the suit be expedited. Pursuant to the orders passed by this Court the learned Principal Judge of City Civil Court at Mumbai has sent report dated 8-7-2005 and as per the said report Suit No.5497 of 1977 claimed to have been filed by the appellant is not pending as at present and, therefore, trial of L.C.Suit No.4645 of 2004 will have to proceed on the basis that the said Suit on 1977 is not pending.

3. The appeal is disposed off with the above

clarifications and the trial of L.C. Suit No.4645 of 2004 is hereby expedited. Needless to mention the status quo in respect of the suit structure as at present shall be maintained during the pendency of the suit.

(B.H.MARLAPALLE,J.)